

1 **UNITED STATES DISTRICT COURT**

2 **DISTRICT OF NEVADA**

3 TERRANCE E. WILLIAMS,

4 Plaintiff

5 v.

6 RYALS, et al.,

7 Defendants

8 Case No.: 3:21-cv-00133-ART-CSD

9 **Order**

10 Re: ECF No. 77

11 Plaintiff has filed a motion to strike Defendant Reza's motion for summary judgment as
12 well as Exhibit 1 to that motion. (ECF No. 77.)

13 **I. Background**

14 Plaintiff is an inmate within the custody of the Nevada Department of Corrections
15 (NDOC); however, the events giving rise to this action took place while Plaintiff was housed at
16 the Washoe County Detention Facility (WCDF). Plaintiff is proceeding pro se with this civil
17 rights action pursuant to 42 U.S.C. § 1983. The court screened Plaintiff's second amended
18 complaint (SAC) and allowed him to proceed with an excessive force claim against defendants
19 Deputy Wueper, Deputy Santos, and Deputy Reza. The claim is based on allegations that
20 Deputies Wueper and Santos unnecessarily deployed pepper spray against him, and he
subsequently had abnormal x-rays and fluid in his lung. He alleges that Deputy Reza filmed the
incident without intervening. (ECF No. 10.)

II. Discussion

A. Legal Standard

3 The court may strike “from a *pleading* an insufficient defense or any redundant,
4 immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f) (emphasis added). Pleadings
5 include a complaint, an answer to a complaint, an answer to a counterclaim, an answer to a
6 crossclaim, a third-party complaint, an answer to a third-party complaint, and, if the court orders,
7 a reply to an answer. Fed. R. Civ. P. 7(a). A pleading does not include a motion for summary
8 judgment or an exhibit to a motion.

9 While Rule 12(f) authorizes the court to strike material from a *pleading*, it does not
10 permit striking material contained in other documents filed with the court. Courts, however, have
11 inherent power to control their dockets, *see Ready Transportation, Inc. v. AAR Manufacturing,*
12 *Inc.*, 627 F.3d 402, 404 (9th Cir. 2010), and to “achieve the orderly and expeditious disposition
13 of cases.” *Chambers v. Nasco, Inc.*, 501 U.S. 32, 43 (1991). “This includes the power to strike
14 items from the docket as a sanction for litigation conduct.” *Ready*, 627 F.3d at 404 (citations
15 omitted).

16 B. Exhibit 1 to Reza's Motion for Summary Judgment

17 Plaintiff argues that Exhibit 1 to the Reza's motion for summary judgment was already
18 deemed irrelevant in connection with a motion to compel that was denied on March 15, 2022.

19 Defendants filed a motion to compel Plaintiff to produce his medical records from the
20 Nevada Department of Corrections. (ECF No. 58.) Exhibit 1 to their motion was a copy of
21 another lawsuit Plaintiff initiated by filing a request for injunctive relief, 3:22-cv-00048-RCJ-
22 CLB. Plaintiff moved to strike that exhibit as irrelevant. (ECF No. 59.) In Defendants' reply
23 brief in support of their motion to compel, they withdrew the motion to compel because the

1 records were being produced by NDOC. As such, the court denied the motion to compel and
2 motion to strike as moot. (ECF No. 65.)

3 Exhibit 1 to Reza's motion for summary judgment (ECF No. 74-1) is another copy of
4 Plaintiff's initiating documents in case 3:22-cv-00048-RCJ-CLB. Plaintiff argues that this is
5 irrelevant to this action and should be stricken.

6 Plaintiff has not set forth a sufficient basis for striking this document. Instead, Plaintiff's
7 recourse is to present an argument regarding the relevance of the document in his response to
8 Reza's motion for summary judgment. Therefore, Plaintiff's motion to strike Exhibit 1 is denied.

9 **C. Reza's Second Motion for Summary Judgment**

10 Plaintiff further argues that Reza's entire second motion for summary judgment be denied
11 and deemed repetitive and excessive because Reza's prior motion for summary judgment was
12 previously denied.

13 Defendant Reza filed her first motion for summary judgment on October 15, 2021,
14 arguing that she is entitled to qualified immunity. (ECF No. 22.) Magistrate Judge William G.
15 Cobb issued a report and recommendation that the motion be denied. (ECF No. 40.) District
16 Judge Miranda Du adopted the report and recommendation. (ECF No. 49.)

17 Defendant Reza filed a second motion for summary judgment on the merits of the failure
18 to intervene claim asserted against her. (ECF No. 74.)

19 Local Rule 7-3 provides that a motion for summary judgment is limited to 30 pages,
20 excluding exhibits. The rule cautions parties that they must not circumvent this rule by filing
21 multiple motions. LR 7-3(a). Reza's first motion was 7 pages in length (excluding the certificate
22 of service). (ECF No. 22.) Reza's second motion for summary judgment is 8 pages in length
23 (excluding the certificate of service and exhibits). The court does not condone the filing of

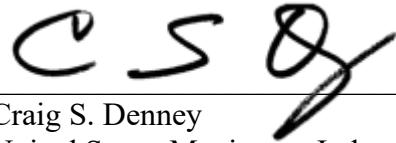
1 successive motions for summary judgment. However, the arguments asserted here are on the
2 merits of Plaintiff's claim against Reza, which was not previously asserted by Reza, and Reza
3 has not exceeded the page limits cumulatively. Therefore, Plaintiff's motion to strike Reza's
4 second motion for summary judgment is denied.

5 **III. Conclusion**

6 Plaintiff's motion to strike Defendant Reza's motion for summary judgment as well as
7 Exhibit 1 to that motion (ECF No. 77) is **DENIED**.

8 **IT IS SO ORDERED.**

9 Dated: May 5, 2022

10 
11 Craig S. Denney
United States Magistrate Judge

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